

EXHIBIT A

**Defendants Rose Acre Farms, Inc.'s Memorandum in Opposition to
Plaintiffs' Motion to Exclude the Testimony of Dr. Jesse David**

Case No. 1:11-cv-08808

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
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4 IN RE: PROCESSED EGG PRODUCTS: MDL NO. 2002
5 ANTITRUST LITIGATION 08-MDL-02002
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8 PHILADELPHIA, PA
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10 DECEMBER 4, 2019
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12 BEFORE: THE HONORABLE GENE E.K. PRATTER, J.
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14 - - - - -
15 TRANSCRIPT OF TRIAL PROCEEDINGS
16 DAY 20
17 - - - - -

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20
21 KATHLEEN FELDMAN, CSR, CRR, RPR, CM
22 Official Court Reporter
23 Room 1234 - U.S. Courthouse
24 601 Market Street
25 Philadelphia, PA 19106
 (215) 779-5578

(Transcript Produced By Mechanical Shorthand Via C.A.T.)

1 that?

2 A. I mean, that certainly seems like it. I don't know that
3 I've seen this document before, but I think -- you know, I
4 think I do -- I can read it and I think you've characterized
5 it accurately.

6 Q. Okay, thank you. You understand, don't you, that the
7 impact of Rose Acre joining the Certified Program meant fewer
8 chickens for the existing cages at Rose Acre, right?

9 A. Right. Because you've got to make more space in the
10 cages, yes.

11 Q. And fewer chickens in those cages -- in the existing
12 cages, fewer chickens in the existing cages meant fewer eggs,
13 right?

14 A. From those chickens.

15 Q. Right. Now, I understand that you don't have an opinion
16 in this case on whether Rose Acre reached an agreement with
17 any of its competitors to reduce supply, right?

18 A. In terms of, did they sign something or did they have
19 some oral agreement or something like that, I don't have an
20 opinion. My opinion is about whether what they did is
21 consistent with an agreement to reduce supply. But whether
22 there was an agreement, I don't know.

23 Q. You would agree with me that the question of whether
24 there was an agreement or not is actually one for the jury,
25 right?

1 A. Sure.

2 Q. It's not a question for you and me to answer.

3 A. I don't have an opinion about whether there was an
4 agreement.

5 Q. Okay. Do you recall reviewing Mr. Rust's testimony about
6 this document, PX-712, that we just looked at together?

7 A. As I sit here right now, no, I don't.

8 Q. Okay. Do you recall, possibly if I refresh your
9 recollection, that he testified here before the jury that he
10 understood that every other member of the Certified Program
11 had entered into the same written agreement with the UEP? Do
12 you recall that?

13 A. I don't recall those -- those words.

14 Q. Okay, let's look at it together.

15 MR. GERMAINE: Permission, Your Honor?

16 THE COURT: Yes.

17 MR. GERMAINE: Thank you.

18 BY MR. GERMAINE:

19 Q. So what I've just handed you, Dr. David, is a copy of the
20 transcript from this trial on November 13, 2019. If you turn
21 to page 70, line 18.

22 A. Okay.

23 Q. My colleague, Mr. Slater, was asking Mr. Rust some
24 questions about this agreement -- it happens a few pages back.
25 And Mr. Slater says: So this was an agreement between you and